



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision Request for Variance Walter Michalke/Map 99, Lot 69

May 5, 2016

**Applicant: Walter Michalke III
7 Lavender Lane
Mount Laurel, NJ 08054**

Location: 54 Eden Lane, Moultonborough, NH (Tax Map 99, Lot 69)

On May 4, 2016, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Walter Michalke (hereinafter referred to as the "Applicant" and/or "Owner") to obtain a Variance from MZO Article III. B (3) to permit the construction of a deck located 15 ft. from the side property line where 20 ft. is required on the parcel located in the Residential Agricultural (RA) Zoning District.

Based on the application, testimony given at the hearings, and additional documentation and plan(s), the Board hereby makes the following findings of fact:

- 1) The property is located at 54 Eden Lane, Moultonborough, NH (Tax Map 99, Lot 69).
- 2) Walter and Sheila Michalke are the owners of record for the lot.
- 3) The applicant was represented at the Public Hearing by Michael Quinn.
- 4) The lot is located in the Residential Agricultural (RA) Zoning District, and the residential use is a use allowed by right in that district.
- 5) The proposal is for the construction of a deck to be located 15 ft. from the side property line where 20 ft. is required.
- 6) One abutter letter of support was noted for the record.
- 7) Granting the Variance would not be contrary to the public interest as the proposed construction will not alter the essential character of the neighborhood because it would be similar to the other dwellings in the neighborhood, and most importantly, not change the intent of the ordinance for setbacks which is adequate provision of light and air between buildings.

- 8) Granting the Variance would be consistent with the spirit of the Ordinance because the proposed construction will not alter the essential character of the neighborhood because it would be similar to the other dwellings in the neighborhood, does not infringe on the rights of neighbors, will not affect the health, safety or general welfare of the neighborhood, and most importantly, not change the intent of the ordinance for setbacks which is adequate provision of light and air between buildings.
- 9) By granting the Variance, substantial justice would be done because there is no public benefit to be gained by denying the request that will allow for a future access which could include a handi-capped ramp, while the loss to the applicant would be great.
- 10) Granting the Variance would not diminish the value of surrounding properties as the proposed deck will increase the value of the subject property and thereby increasing neighborhood valuations.
- 11) Special conditions do not exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as the proposed use is a reasonable one because the applicant is enlarging an existing deck which will allow for future access which could include a handi-capped ramp and is being afforded an opportunity to have what several other neighbors have already.
- 12) On May 4, 2016, the Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, Bickford, Nolin, DeMeo, Jenny) and none (0) opposed to grant the request for the variance for the construction of a deck to be located 15 feet from the side property line, and further to close the Public Hearing. They moved to direct Staff to draft a formal Notice of Decision for review and approval for signing at the next meeting.

The Board of Adjustment, on May 18, 2016, approved this formal Notice of Decision language and authorized the Chairman to sign the Notice of Decision and send to the applicant and place same in the case file by a vote of three (3) in favor (Stephens, Bickford, Jenny), two (2) abstentions (Zewski, St. Peter) and none (0) opposed.

The decision made to grant the variance on May 4, 2016, shall not take effect until thirty (30) days have elapsed and no request for rehearing has been filed in accordance with RSA 677:2, or that if such request has been filed, it has been dismissed or denied, in accordance with RSA 677:3.



Robert H. Stephens
Chairman, Zoning Board of Adjustment

Date 5/20/16